

SIMTEK6915

IN THE UNITED STATES PATENT OFFICE

J PW

In re Application of
Ryoji Kaneko

App. No.: 10/709971
Filed: 6/10/2004
Conf. No.: 3970
Title: BRUSH TYPE DC ELECTRIC MACHINE
Examiner: E. Preston
Art Unit: 2834
Commissioner for Patents
P.O. Box 1450
Arlington, VA 22313-1450

RECEIVED

SEP 12 2006

OFFICE OF PETITIONS

PETITION FOR REINSTATEMENT OF THIS CASE
WITHDRAWL OF THE NOTICE OF ABANDONMENT
AND REQUEST FOR THE COMMISSIONER'S REVIEW

Dear Sir:

It is most respectfully requested that the Decision on Petition to Accept Papers as Being Timely Filed and the Holding of Abandonment be withdrawn and the case be reinstated for the reasons as will be set out below and that this paper be treated also as a Petition to Revive as the alleged abandonment was unavoidable. The facts in support of this will be set out below.

HISTORY OF THE APPLICATION

This application was filed electronically on June 10, 2004, claiming priority on a Japanese application filed June 17, 2003. An IDS was filed on August 23, 2004.

Since it is relevant to a final decision, the perceived invention in this case is the winding of the phases of a multi phase alternating current electrical machine so that the current flows through adjacent coils of each of the phases in opposite directions upon operation of the machine. This is accomplished by winding the adjacent coils in opposite directions. It should be noted that the current flow through each coil reverses as the machine rotates, hence the name "alternating current". That is true with all AC Machines, as is well known. The importance of the opposite flow directions through adjacent coils of each phase was clearly stressed in the specification.

A first Office Action on the merits was issued on May 27, 2005 and all claims were rejected as either being anticipated by Egawa et al, US Patent 6,819,025 or obvious from it in light of secondary references, not relevant for the purposed of this filing. Note should be taken of the fact that all coils of each phase in the reference are wound in the same direction.

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The Office Action of May 27, 2005 was responded to by an amendment filed August 11, 2005 which did not amend the claims other than to reply to objections in the claim language of certain claims and not to the flow directions in the adjacent coils of the respective phase windings.

This resulted in the Final Rejection, dated September 20, 2005 when the Examiner first stated "that the claims "make no positive recitation ...that the adjacent coil pairs have electrical energy flowing through them in opposite directions simultaneously". Thus for the first time stressing that he felt the claims did not distinguish over conventional AC machines where the flow directions continuously reverse, but are always in the same direction at a given time. This feature was stressed throughout the specification, but the Examiner apparently never searched that even though the MPEP directs the examiners to search not only what is specifically claimed but also what they could reasonably expect the applicant to add by amendment.

Immediately after receiving this Final Rejection the undersigned called the Examiner and proposed a clarifying amendment which the Examiner contended would raise a new issue. Such an amendment was lodged on December 5, 2005, but was refused entry on December 19, 2005. Applicant's attorney then filed a Petition requesting entry on the next day, December 20, 2005.

The Petition was not responded to by the due for response to the Final Rejection and to avoid abandonment the undersigned also filed the timely Notice of Appeal on December 20, 2005.

The petition was not answered and a renewed request was filed on March 19, 2006. This remained unanswered until August 1, 2006, at which time the Office denied the petition at a time after the case became technically abandoned. Thus it is believed that the action made after a technical abandonment could well be considered as a reopening of prosecution. In any event the undersigned filed his Brief based on the claims as finally rejected as it always was believed by him that the Examiner was construing the claims in a way opposite to their intended meaning as clearly stressed in the application. Before the decision on August 1, 2006, the undersigned earnestly believed the Office would act honorably and enter the amendment.

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If the Office does not agree that the case was not abandoned intentionally, it is asked to revive the case as unavoidably abandoned to the delay of the Office in responding and to waive the fee for such revival for the same reason.

Respectfully submitted:



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